

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT JAMES STEWART,
WES MARTINSON, *et al.*,

NO. CV-05-256-RHW

Plaintiffs,

V.

**CHELAN COUNTY DISTRICT
COURT, *et al.*,**

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants.

Before the Court are the State Defendants' Motion to File Over Length Brief and Motion for Summary Judgment (Ct. Rec. 179) and the Wenatchee Defendants' Motion for Summary Judgment (Ct. Rec. 199). The motions were heard without oral argument.

BACKGROUND

On August 23, 2005, Plaintiffs filed suit against Adams County; Adams County District Court; Cashmere City Counsel Members; City of Cashmere; Chelan County; Chelan County Commissioners; Chelan County District Court; Chelan County PUD # 1; Chelan County Prosecutor's Officer; Chelan County Sheriff's Office; Chelan County Superior Court; Police Officers for the City of East Wenatchee; Police Officers for the City of Quincy; Police Officers for the City of Wenatchee; Columbia County; Columbia County Sheriff; Douglas County; Douglas County District Court; Douglas County Sheriff's Deputies; Douglas County Superior Court; City of East Wenatchee; Franklin County; Franklin County

1 District Court; Franklin County Sheriff; Grant County; Grant County District
2 Court; Grant County Superior Court; Lincoln County; Lincoln County Sheriff
3 Deputy; Municipal Court for the City of Quincy; City of Quincy; Walla Walla
4 County; and City of Wenatchee, as well as against individually-named employees
5 of the above-listed entities. On September 19, 2005, the Court granted Plaintiffs
6 leave to find an Amended Complaint. On October 4, 2005, Plaintiff filed an
7 Amended Complaint. On November 21, 2005, the Court ordered Plaintiffs to file a
8 Second Amended Complaint. On April 17, 2005, Plaintiffs filed a Second
9 Amended Complaint.

10 **DISCUSSION**

11 **A. Standard of Review**

12 Summary judgment is appropriate if the “pleadings, depositions, answers to
13 interrogatories, and admissions on file, together with the affidavits, if any, show
14 that there is no genuine issue as to any material fact and that the moving party is
15 entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). There is no
16 genuine issue for trial unless there is sufficient evidence favoring the non-moving
17 party for a jury to return a verdict in that party’s favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986). The moving party had the initial burden of
18 showing the absence of a genuine issue of fact for trial. *Celotex Corp. v. Catrett*,
19 477 U.S. 317, 325 (1986). If the moving party meets its initial burden, the non-
20 moving party must go beyond the pleadings and “set forth specific facts showing
21 that there is a genuine issue for trial. *Id.* at 325; *Anderson*, 477 U.S. at 248.

22 In addition to showing that there are no questions of material fact, the
23 moving party must also show that it is entitled to judgment as a matter of law.
24 *Smith v. University of Washington Law School*, 233 F.3d 1188, 1193 (9th Cir.
25 2000). The moving party is entitled to judgment as a matter of law when the non-
26 moving party fails to make a sufficient showing on an essential element of a claim
27 on which the non-moving party has the burden of proof. *Celotex*, 477 U.S. at 323.

**ORDER GRANTING DEFENDANTS’ MOTION FOR SUMMARY
JUDGMENT ~ 2**

1 When considering a motion for summary judgment, a court may neither
 2 weigh the evidence nor assess credibility; instead, “the evidence of the non-movant
 3 is to be believed, and all justifiable inferences are to be drawn in his favor.”
 4 *Anderson*, 477 U.S. at 255.

5 **B. The State Defendants’ Motion for Summary Judgment**

6 For the following reasons, the State Defendants’ Motion for Summary
 7 Judgment is granted.

8 First, the claims against Gary Weeks, Liz Luce, Fred Stephens, Robyn
 9 Arnold-Williams, Bryon Martin, and Steven Morehead are dismissed because
 10 Plaintiff has failed to establish that there is a genuine issue of material fact
 11 regarding whether these Defendants personally participated in any alleged
 12 constitutional violations. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

13 Second, the claims against the State of Washington or the State Defendants
 14 acting in their official capacity are dismissed because neither the State nor its
 15 officials are “persons” subject to suit under § 1983. *Will v. Michigan Dept. of*
16 State Police, 491 U.S. 58, 71 (1989).

17 Third, Plaintiffs have failed to establish that there is a genuine issue of
 18 material fact regarding whether the State Defendants violated their constitutional
 19 rights. *Saucier v. Katz*, 533 U.S. 194, 204 (2001).

20 Fourth, Plaintiffs have failed to establish that there is a genuine issue of
 21 material fact that any material interaction between the State Defendants and
 22 Plaintiff took place less than three years prior to the filing of this lawsuit. *See*
23 Owens v. Okure, 488 U.S. 235, 249-50 (1989) (the limitation period for § 1983
 24 claims is determined by the state statute of limitations); Wash. Rev. Code §
 25 4.16.080 (3-year statute of limitation for personal injury).

26 Finally, to the extent that Plaintiffs are relitigating claims or issues decided
 27 in the state court proceedings, dependency orders, traffic infractions, and workers’
 28 compensation decisions, the doctrine of *res judicata* precludes Plaintiff from

1 relitigating these issues in federal court. *Mpoyo v. Litton Electric-Optical Systems*,
 2 430 F.3d 985, 987 (9th Cir. 2005) (*Res judicata* applies when “the earlier suit (1)
 3 involved the same ‘claim’ or cause of action as the later suit, (2) reached a final
 4 judgment on the merits, and (3) involved identical parties or privies.”)

5 **C. Wenatchee Defendant’s Motion for Summary Judgment**

6 For the following reasons, the Wenatchee Defendants’ Motion for Summary
 7 Judgment is granted.

8 First, Plaintiffs have failed to establish there is a genuine issue of material
 9 fact regarding whether the Wenatchee Defendants participated in any alleged
 10 trespass on Plaintiffs’ property.

11 Second, Plaintiffs have failed to establish there is a genuine issue of material
 12 fact regarding whether the Wenatchee Defendants falsely arrested or imprisoned
 13 any specifically-named Plaintiffs, or that their claims fall within the statute of
 14 limitations period. *See Wash. Rev. Code § 4.16.100* (statute of limitations for
 15 action for false imprisonment is two years).

16 Third, the section 1983 claims against Defendant City of Wenatchee are
 17 dismissed because Plaintiffs have failed to establish there is a genuine issue of
 18 material fact that any alleged constitutional violation was the result of a policy or
 19 custom. *See Monell v. Dep’t of Soc. Serv.*, 436 U.S. 658 (1978).

20 Fourth, Plaintiffs have failed to establish there is a genuine issue of material
 21 fact regarding whether the Wenatchee Defendants violated their constitutional
 22 rights. *Katz*, 533 U.S. at 202.

23 **D. Supplemental Jurisdiction**

24 Because the Court concludes that Plaintiffs have failed to establish that a
 25 genuine issue of material exists regarding whether the state Defendants or the
 26 Wenatchee Defendants violated their constitutional rights, the Court declines to
 27 exercise its supplemental jurisdiction over any remaining state claims. *See* 28
 28 U.S.C. § 1337(c); *see also Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7

(1988) (“in the usual case in which all federal-law claims are eliminated before trial, the balance of factors to be considered under the pendent jurisdiction doctrine—judicial economy, convenience, fairness, and comity—will point toward declining to exercise jurisdiction over the remaining state-law claims.”); *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726 (1966).

Accordingly, **IT IS HEREBY ORDERED:**

7 1. The State Defendants' Motion to File Over Length Brief and Motion
8 for Summary Judgment (Ct. Rec. 179) is **GRANTED**. The following Defendants
9 are dismissed from the above-captioned case: Tim Abbey, Robyn Arnold-
10 Williams, Kate Carrow, Kate Carroll, Brent Dearing, Larry Lesmeister, Liz Luce,
11 Bryon Martin, Steven Moorehead, John Doe ("Jim") Moser, Davis Richmond, Fred
12 Stephens, Michael Walcker, and Gary Weeks.

13 2. The Wenatchee Defendants' Motion for Summary Judgment (Ct. Rec.
14 199) is **GRANTED**. The following Defendants are dismissed from the above-
15 captioned case: City of Wenatchee and City Police Officers of City of Wentachee.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
17 Order and forward copies to counsel and Plaintiffs.

DATED this 5th day of January, 2007.

s/ Robert H. Whaley

ROBERT H. WHALEY
Chief United States District Judge

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